

Attorney or Party Name, Address, Telephone and Fax Number, and CA State Bar No.		FOR COURT USE ONLY
<p>James C. Bastian, Jr. – Bar No. 175415 Melissa Davis – Bar No. 245521 SHULMAN HODGES & BASTIAN LLP 26632 Towne Centre, Suite 300 Foothill Ranch, California 92610-2808 Telephone: (949) 340-3400 Facsimile: (949) 340-3000 Email: jbastian@shbllp.com; mdavis@shbllp.com</p> <p>Attorneys for the Official Committee of Unsecured Creditors for the Bankruptcy Estate of Alliance Payment Technologies, Inc.</p>		
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA		
In re: ALLIANCE PAYMENT TECHNOLOGIES, INC. Debtor.		CASE NO.: 6:09-bk-14205 MJ Chapter 11

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: March 18, 2010 - Deadline for Submitting Bids March 31, 201 at 1:30 Final Auction Sale	Time: See the Attached Notice of Bidding Procedures
Location: See the Attached Notice of Bidding Procedures	

Type of Sale: ☒ Public

☐ Private

Last date to file objections:

See attached Notice

Description of Property to be Sold: **ACH Software as described in the attached Notice of Bidding Procedures**

Proposed Sale Price: **See the Attached Notice of Bidding Procedures**

Overbid Procedure (If Any): **See the Attached Notice of Bidding Procedures**

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):

**Attorneys for the
Official Committee of Unsecured Creditors**
James C. Bastian, Jr., Esq. and Melissa Davis, Esq.
Shulman Hodges & Bastian LLP
26632 Towne Centre Drive, Suite 300
Foothill Ranch, CA 92610
Telephone: (949) 340-3400
Facsimile: (949) 340-3000

Attorneys Alliance Payment Technologies, Inc.
Thomas E. Kent, Esq.
Lee & Kent
915 Wilshire Boulevard Suite 2050
Los Angeles, California 90017-3494
Telephone: (213) 380-2828
Facsimile: (213) 380-2826

Date: **February 16, 2010**

COPY

1 James C. Bastian, Jr. – Bar No. 175415
Melissa Davis – Bar No. 245521
2 **SHULMAN HODGES & BASTIAN LLP**
26632 Towne Centre, Suite 300
3 Foothill Ranch, California 92610-2808
Telephone: (949) 340-3400
4 Facsimile: (949) 340-3000
Email: jbastian@shbllp.com; mdavis@shbllp.com

5
6 Attorneys for the Official Committee of Unsecured Creditors
for the Bankruptcy Estate of Alliance Payment Technologies, Inc.

7 Thomas E. Kent – Bar No. 107238
LEE & KENT
8 915 Wilshire Boulevard Suite 2050
Los Angeles, California 90017-3494
9 Telephone: (213) 380-2828
Facsimile: (213) 380-2826
10 Email: tkent@leekent.com

11 Attorneys for the Debtor and Debtor in Possession
Alliance Payment Technologies, Inc.

12
13 **UNITED STATES BANKRUPTCY COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA, RIVERSIDE DIVISION**

15 In re

16 **ALLIANCE PAYMENT**
17 **TECHNOLOGIES, INC.**

18 Debtor.

Case No. 6:09-bk-14205 MJ

Chapter 11

**NOTICE OF AUCTION SALE AND BIDDING
PROCEDURES IN CONNECTION WITH THE
SALE OF PROPERTY OF THE ESTATE (ACH
SOFTWARE)**

Expiration of Due Diligence Period

Date: March 8, 2010

Deadline for Submission of Bid Packages

Date: March 18, 2010

Date of Final Auction Sale

Date: March 31, 2010

Time: 1:30 p.m.

Place: U.S. Bankruptcy Court
Courtroom 301
3420 Twelfth Street
Riverside, CA 92501

1 **NOTICE IS HEREBY GIVEN** that on February 5, 2010, the Court entered an Order
2 (“**Bidding Procedures Order**”) approving the Bidding Procedures attached hereto related to the
sale of the Debtor’s ACH Software described in the Bidding Procedures.

3 In reviewing and following the Bidding Procedures, please that certain deadlines have
4 been set, including the following:

- 5 • **Due Diligence Period.** Any potential bidder shall have a period of thirty days from the
6 date of entry of the Bidding Procedures Order to conduct due diligence on the ACH
Software for purposes of making a bid. As such the Due Diligence Period will expire on
March 8, 2010¹.
- 7 • **Bid Deadline:** The deadline for any potential bidder to submit their Bidder Package (as
8 that term is defined in the Bidding Procedures) is ten days after expiration of the Due
Diligence Period – or March 18, 2010.
- 9 • **Final Auction Sale:** The final bidding round and auction sale of the ACH Software will
10 be held on March 31, 2010 at 1:30 p.m., in Courtroom 301 of the United States
Bankruptcy Court located at 3420 Twelfth Street, Riverside, California 92501. Only
11 potential bidders that have timely submitted their Bidder Package will be allowed to
participate at the final auction sale to be held on March 31, 2010.

12
13 Dated: February 12, 2010

SHULMAN HODGES & BASTIAN LLP

/s/ James C. Bastian, Jr.

14
15 _____
James C. Bastian, Jr.
Melissa R. Davis
16 Attorneys for the Official Committee of
Unsecured Creditors for the bankruptcy estate of
17 Alliance Payment Technologies, Inc.

18 Dated: February 12, 2010

LEE & KENT

19
20 _____
Thomas E. Kent
21 Attorneys for the Debtor and Debtor in Possession,
Alliance Payment Technologies, Inc.

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28 ¹ Thirty days after entry of the February 5, 2010 Bidding Procedures Order would be
March 7, 2010. As such, the Due Diligence Period is extended to March 8, 2010.

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17 participate at the final auction sale to be held on March 31, 2010.

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SHULMAN HODGES & BASTIAN LLP

/s/ James C. Bastian, Jr.

James C. Bastian, Jr.
Melissa R. Davis
Attorneys for the Official Committee of
Unsecured Creditors for the bankruptcy estate of
Alliance Payment Technologies, Inc.

19 Dated: February 12, 2010

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Thomas E. Kent
Attorneys for the Debtor and Debtor in Possession,
Alliance Payment Technologies, Inc.

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COURT APPROVED BIDDING PROCEDURES

BIDDING PROCEDURES FOR THE ACH SOFTWARE

1. Non-Disclosure Agreement. The potential bidders for the ACH Software must provide the Debtor and the Committee with a signed Non-Disclosure Agreement prior to their receipt of the Due Diligence Package (defined below). Parties interested in bidding may receive a copy of the Non-Disclosure Agreement under the Bidding Procedures Order t), by making their request to the Committee's counsel.

2. Due Diligence Period. Subject to the conditions set forth in section 3 below, any potential bidder shall have until **MARCH 8, 2010** to conduct due diligence on the ACH Software for purposes of making a bid ("Due Diligence Period").

a. Delivery of Due Diligence Package to Potential Bidders. Potential bidders who (i) execute and deliver to the Debtor and the Committee a Non-Disclosure Agreement and (i) provide evidence that the potential bidder has sufficient financial resources to consummate the purchase of the ACH Software for the minimum overbid required hereunder (a "Potential Bidder"), will receive a package of documents containing information and documentation related to the ACH Software (the "Due Diligence Package"). In order to assist the Potential Bidder in preparing its own purchase agreement as required by the Indication of Interest Letter set forth below, concurrent with the delivery of the Due Diligence Package, the document setting forth the terms of the purchase agreement with Bay Cities² will also be provided so that the Potential Bidders may show those amendments and modifications to the purchase transaction, including price and terms, and such ancillary agreements as may be necessary to achieve the intention of the purchase agreement by the Potential Bidder. In addition to the Due Diligence Package, Potential Bidders will be given the opportunity to meet with management of the Debtor who shall make themselves available to answer questions about the ACH Software and the Due Diligence Package and request additional materials and information as may be reasonably necessary for such Potential Bidder to make a bid for the ACH Software. This opportunity shall be provided during the Due Diligence Period and at such time as may be mutually convenient for the Debtor and the Potential Bidders.

3. Bidder Package, Bid Deadline and Qualified Bidder Designation. In order for a bid to be considered, the Committee's counsel must receive the following items (collectively the "Bidder Package") from the Potential Bidder no later than **MARCH 18, 2010** ("Bid Deadline"). A Potential Bidder who timely provides a complete Bidder Package shall be deemed a "Qualified Bidder." The Bidder Package must include the following:

a. An Indication of Interest Letter in substantially the same form as attached hereto, marked to show the Qualified Bidder's offer which incorporates at a minimum the following:

- i. Identifies the Qualified Bidder and their representatives who are authorized to act on their behalf.
- ii. Provides for an all-cash purchase price to be paid to the Estate that exceeds the \$600,000 purchase price proposed by Bay Cities by at least \$50,000 and value to the estate equal to or greater than the value found in Section 4.a. vii. below.
- iii. Is not subject to due diligence contingencies or other conditions beyond those allowed under the Bidding Procedures.
- iv. Does not contain a condition on obtaining financing or shareholder approval.
- v. Does not contain a closing date that is more than thirty days after entry of a Court order confirming the Committee Plan.

² The terms for purchase transaction terms with Bay Cities are set forth in the Disclosure Statement and Chapter 11 Liquidating Plan jointly proposed by the Committee and the Debtor.

- vi. Shall remain open and irrevocable until the closing of the sale of the ACH Software.
- vii. Does not impose any licensing restrictions on the ACH Software that would impact the Committee Plan. **Specifically, the sale of ACH Software shall be on a non-exclusive basis such that after confirmation of the Chapter 11 plan, the Estate shall retain the exclusive rights to sell future ACH Software licenses to third parties during a five year sale period commencing on the Effective Date³ of the confirmed Chapter 11 plan and ending on the date that is five years after such plan Effective Date. The license shall provide that 10% of the sales revenue generated through sales of licenses shall be paid to Bay Cities. In addition, the sale of the ACH Software is subject to the ACH Software license rights already granted to other licensees including those granted to George Sutton & Associates, Inc. and Solveras, Inc., fka Smart Payment Solutions.**
- viii. A purchase deposit in certified funds in the amount of \$50,000 ("Bidder's Deposit").
- ix. Written evidence of the approval of the contemplated transaction by the Qualified Bidder's board of directors (or comparable governing body); provided however, that if the Qualified Bidder is an entity specially formed for the purpose of the acquiring the ACH Software, then the Qualified Bidder must furnish evidence or other information acceptable to the Debtor and the Committee of the approval of the contemplated transaction by the board of directors (or comparable governing body) of the controlling equity holders of the Qualified Bidder.
- x. Admissible evidence in the form of affidavits or declarations establishing the Qualified Bidder's good faith, within the meaning of Section 363(m) of the Bankruptcy Code. In addition, the Qualified Bidder shall be required to acknowledge in writing that it has not engaged (and agrees to not engage) in any collusion with respect to any offer, Bidder Package, the Auction (defined below) or the sale of the ACH Software.
- xi. Admissible evidence of sufficient specifically committed funds to complete the transaction for the bid amount, documentation demonstrating the Qualified Bidder's ability to qualify as the purchaser of the ACH Software, its ability to close the sale, and its ability to immediately and unconditionally pay the winning bid purchase price at the closing of the sale.
- xii. Allows for the Debtor to sell licenses and close such sales with respect to potential buyers of such licenses as shall be identified by the Debtor on or before February 1, 2010, with 100% of the proceeds of such licenses to be received by the Debtor.

FOR THE AVOIDANCE OF DOUBT, QUALIFIED BIDDERS SHOULD BE AWARE THAT IF THEY FAIL TO SUBMIT THEIR BIDDER PACKAGE BEFORE THE EXPIRATION OF THE BID DEADLINE, THEY WILL NOT BE ALLOWED TO (1) PARTICIPATE IN THE AUCTION UNDER ANY CIRCUMSTANCES, OR (2) SUBMIT ANY OFFER AFTER THE BID DEADLINE OR AFTER THE AUCTION

4. Notice of the Bidding Procedures - Marketing. Within five days of approval of the Bidding Procedures, the following will occur:

³ The "Effective Date" under the Committee Plan is defined to mean the earlier of (i) the closing of the sale of the ACH Software to Bay Cities, the Successful Bidder, or the First Back-up Bidder, as the case may be, or (ii) the date not later than thirty days following the date upon which the Confirmation Order becomes a Final Order; provided, however, that, if an appeal of the Confirmation Order is timely filed, the Committee may elect to cause the Plan to become effective, notwithstanding the pendency of such appeal, so long as no stay of the Confirmation Order is in effect.

a. So that they may be potential bidders for the ACH Software, all creditors and parties in interest will be sent this notice of the Bidding Procedures.

b. A Notice of Sale of Estate Property in compliance with Local Bankruptcy Rule 6004-2 will be filed with the Court regarding the proposed sale, making the proposed transaction a matter of public record.

c. The Committee's counsel will list the sale opportunity on its website including a link to the Bidding Procedures and related information.

d. The sale opportunity may be, but is not required to be advertised in two consecutive weekly ads, commencing in the earliest possible week following Court approval of the Bidding Procedures, in the classified or business opportunity section of ACH trade publications which have the highest circulation.

5. Auction Procedures. If there is one or more Qualified Bidders who have submitted a timely, qualifying Bidder Package in accordance with these Bidding Procedures (each such bid, a "Qualified Bid"), then the Committee shall file and serve, on all parties required submitting a Qualified Bid, notice of their receipt of one or more Qualified Bids and notice of the date, time and place for a public auction of the ACH Software ("Auction"). **The Auction shall be conducted on March 31, 2010 at 1:30 P.M. in Courtroom 301 of the United States Bankruptcy Court located at 3420 Twelfth Street, Riverside, California 92501.** The Auction shall be governed by the following procedures:

a. With the Court's supervision, the Debtor and the Committee shall preside over and conduct the Auction.

b. Between the Bid Deadline and the Auction, the Committee and the Debtor may discuss, negotiate or seek clarification of any Qualified Bid from a Qualified Bidder. Without the written consent of the Committee and the Debtor, the Qualified Bidder may not modify, amend or withdraw its Qualified Bid except for proposed amendments to increase the purchase price or otherwise improve the terms of the Qualified Bid.

c. In the event that there are Qualified Bids received that are similar and/or equal in amount, the Committee and the Debtor, in their sole discretion and based on their reasonable business judgment, shall select which Qualified Bid shall be the opening bid for the purposes of the Auction, which such determination shall become irrevocable and unreviewable once the Auction has commenced.

d. All Qualified Bidders shall be deemed to have consented to the core jurisdiction of the Bankruptcy Court and to have waived any right to jury trial in connection with any disputes relating to the Auction or the sale of the ACH Software.

e. Bidding will commence at the amount of the highest Qualified Bid.

f. Each subsequent bid shall be in increments of no less than \$50,000.

g. There will be no matching rights and each Qualified Bidder must submit an overbid in order to be deemed the Successful Bidder (defined below.)

h. The Debtor or the Committee shall announce the material terms of each overbid at the Auction and shall disclose its valuation of the total consideration offered in each overbid in order to confirm that each overbid at the Auction meets the requisite bid increment and to provide a floor for further overbids.

i. The bidding at the Auction will continue until no other bids are made and the party who submits the highest and best bid, as determined jointly by the Debtor and the Committee using their reasonable business judgment, shall be deemed to be the successful bidder ("Successful Bidder"). The Qualified Bidders who have been outbid by the Successful Bidder will be offered the opportunity to remain as a back-up bidder. The Qualified Bidder with the next highest and best bid compared to the Successful Bidder who accepts such

designation shall be designated by the Debtor and the Committee as the "First Back-Up Bidder." The Estate shall retain the Bidder's Deposit of the First Back-Up Bidder, if any, pending closing of the sale transaction.

j. Acceptance of the Successful Bidder's offer shall be accomplished pursuant to the chapter 11 Plan confirmed by the Court, which shall serve as the Court's approval of the sale transaction. Nevertheless, if the Debtor and the Committee determine that closing of the sale should occur prior to confirmation of a Chapter 11 plan, a motion seeking Court approval of the sale to the Successful Bidder shall be filed in accordance with the requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules.

k. In the event Successful Bidder fails to close the sale within the time parameters as required under the Chapter 11 plan confirmed by the Court, without further notice, hearing or Court order, the Estate through the plan Disbursing Agent shall retain the Bidder's Deposit received from the Successful Bidder, the Estate shall be released from its obligation to sell the ACH Software to the Successful Bidder and the Disbursing Agent on behalf of the Estate may then sell the ACH Software to the First Back-Up Bidder.

l. In the event the sale closes to the Successful Bidder, the Bidder's Deposit shall be promptly returned to the First Back-Up Bidder.

m. No bidder or Qualified Bidder for the ACH Software shall be entitled to payment of any break-up fee.

n. Any entity that fails to submit a timely, conforming Qualified Bid, as set forth above, shall be disqualified from bidding for the ACH Software at the Auction.

o. The Committee and the Debtor may adopt additional rules for the Auction at or prior to the Auction, that in their reasonable business judgment and sole discretion will better promote the goals of the Auction and that are not inconsistent with any of the provisions of the Bidding Procedures approved by the Court.

p. If no timely, conforming Qualified Bid is submitted, there will be no Auction and under the provisions of the Committee Plan, the Estate will sell the ACH Software to Bay Cities for a purchase price of \$600,000.

INDICATION OF INTEREST LETTER

Dated: _____, 2010

TO: ALLIANCE PAYMENT TECHNOLOGIES, INC., THE DEBTOR AND DEBTOR IN POSSESSION ("DEBTOR") AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR THE DEBTOR'S BANKRUPTCY ESTATE ("ESTATE"):

_____ ("_____" or "Bidder") submits for your consideration this indication of interest letter ("Interest Letter") setting forth the following principal terms for a proposed transaction in which Bidder will acquire from the Debtor's Estate, the software referred to as the "ACH Software". Specifically, the ACH Software means the source codes referred to in the Technology Escrow Agreement dated July 31, 2006 between the Debtor and EscrowTech International, Inc.

Bidder acknowledges that the sale of the ACH Software is subject to approval of the Bankruptcy Court in the bankruptcy case of In re Alliance Payment Technologies, Inc., Case No. 6:09-bk-14205 MJ and the Bidding Procedures previously provided to Bidder.

Throughout this Interest Letter, the term "Seller" means the Debtor and its Estate. The term Seller does not include the Committee.

The proposed terms and conditions for the transaction contemplated by this Interest Letter include the following:

1. Sale and Purchase of ACH Software. Subject to the terms and conditions contained herein as to more specifically defined in **the purchase agreement** in a form to be approved by the Committee and the Debtor, the Debtor's Estate will sell to Bidder, and Bidder will buy from the Debtor's Estate the ACH Software, free and clear of all liens, claims and encumbrances for an all-cash purchase price of \$_____.

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. Due Diligence and other Contingencies. Due diligence shall be concluded by no later than the Due Diligence Period set forth in the Bidding Procedures. This offer is not condition on Bidder obtaining financing or obtaining shareholder approval.

9. Closing. The closing date for the transaction shall not occur more than thirty days after entry of a Court order confirming a Chapter 11 plan in the Debtor's bankruptcy case.

10. Period of Time Offer to Remain Open. This offer shall remain open until the close of the sale of the ACH Software in the Debtor's bankruptcy case.

11. No Licensing Restrictions to Impact Chapter 11 Plan. This offer does not impose any licensing restrictions on the ACH Software that would impact a Chapter 11 plan in the Debtor's bankruptcy case. **Specifically, the transaction for sale of ACH Software shall be on a non-exclusive basis such that after confirmation of the Chapter 11 plan, the Estate shall retain the exclusive rights to sell future ACH**

Software licenses to third parties during a five year sale period commencing on the Effective Date⁴ of the confirmed Chapter 11 plan and ending on date that is five years after such plan Effective Date. In addition, the sale of the ACH Software is subject to the ACH Software license rights already granted to other licensees including those granted to George Sutton & Associates, Inc. and Solveras, Inc., fka Smart Payment Solutions.

12. Definitive Agreement. Consummation of the transaction will be subject to Bankruptcy Court approval in the Debtor's bankruptcy case, which such approval may be in connection with the confirmation of a Chapter 11 plan, and the negotiation and execution of the a purchase agreement in a form to be approved by the Committee and the Debtor. In order to assist the Bidder in preparing its own purchase agreement, concurrent with the delivery of the Due Diligence Packages to Bidder, the document setting forth the purchase transaction agreed to by Bay Cities will also be provided so that the Bidder may mark its purchase agreement to show those amendments and modifications to the Bay Cities transaction, including price and terms, and such ancillary agreements as may be necessary to achieve the intention of the Bidder's purchase agreement. The Bidders purchase agreement will also contain customary representations and warranties (none of which will survive Closing), covenants and closing conditions, and will not provide for post-Closing indemnification of Bidder by Seller and/or the Committee. This letter does not set forth all of the matters upon which agreement must be reached in order for the proposed transaction to be consummated.

13. Conditions to the Transaction. Due to the underlying circumstances leading to the liquidation of the ACH Software, Seller acknowledges that it must take reasonable steps to demonstrate that it has sought to obtain the highest and best price for the ACH Software including entertaining other offers from prospective bidders. The parties agree and acknowledge that the Seller will be conducting an auction of the ACH Software pursuant to the terms and conditions of the Bidding Procedures previously provided to Bidder. Such Bidding Procedures allow the Seller to solicit higher or better offers and further require, among other things, that the Seller consider as higher or better offers ("Overbids") only those proposals that meet the requirements the Debtor and the Committee, using their reasonable business judgment.

14. Expenses. Each of the parties will bear its own expenses relating to the proposed transaction. Neither Seller, its Estate, the Committee, nor any of their affiliates shall bear any liability for any fees and expenses of the Bidder or its affiliates in the event that the transaction is not consummated.

15. Cooperation. The parties agree to use their reasonable efforts to consummate the actions set forth in this Interest Letter on an expedited basis to the extent practicable. The Seller and Bidder shall each use their reasonable best efforts to take all actions and to do all things necessary, proper or advisable in order to carry out the transaction, including without limitation preparing as soon as practicable all documentation to effect all necessary applications, notices, petitions and filings and to obtain as promptly as practicable all consents, waivers, licenses, approvals or authorizations necessary from any governmental entity or other third party in order to carry out the transaction.

16. Termination. Unless sooner terminated by the mutual agreement of the parties hereto, this letter shall terminate on the earliest to occur of (a) 30 days after entry of a Bankruptcy Court order confirming a Chapter 11 plan in the Debtor's bankruptcy case; (b) the execution of the a purchase agreement in a form approved by the Committee and the Debtor. Prior to such termination, Seller and Purchase may notify the other in writing that it has determined, including by reason of information discovered during the due diligence process under the Bidding Procedures, not to proceed with the transaction, whereupon this Interest Letter shall terminate. Following the termination of this Interest Letter, no party hereto shall have further liability or

⁴ The "Effective Date" under the Committee Plan is defined to mean the earlier of (i) the closing of the sale of the ACH Software to Bay Cities, the Successful Bidder, or the First Back-up Bidder, as the case may be, or (ii) the date not later than thirty days following the date upon which the Confirmation Order becomes a Final Order; provided, however, that, if an appeal of the Confirmation Order is timely filed, the Committee may elect to cause the Plan to become effective, notwithstanding the pendency of such appeal, so long as no stay of the Confirmation Order is in effect.

obligation hereunder to the other party; provided that the foregoing shall not relieve any party from liability for its breach of any binding provision of this Interest Letter.

17. Governing Law. This Interest Letter is to be governed by and construed in accordance with federal bankruptcy law, to the extent applicable, and where state law is implicated, the laws of the State of California shall govern. Any dispute relating to, or arising out of this Interest Letter shall be adjudicated in the United States Bankruptcy Court, Central District, Riverside Division before the judge assigned to the Debtor's bankruptcy case. Further, if a dispute arises, such dispute may initially be resolved through any mediation program pending in the Bankruptcy Court for the Central District of California.

18. Public Announcements. All public announcements or statements concerning the Transaction will be approved by Seller, which approval shall not be unreasonably withheld, delayed or conditioned. Bidder acknowledges and agrees that Seller may provide copies of this Interest Letter and attachments to parties in interest, and those parties Seller determines it is necessary to provide copies to in connection with the auction and Bidding Procedures process or as otherwise necessary in connection with the liquidation of the ACH Software as required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Bankruptcy Court in the Debtor's bankruptcy case. Seller also shall be entitled to provide copies as otherwise required by law and shall be entitled to publish notice in publications deemed appropriate.

This Interest Letter supersedes in its entirety all prior and contemporaneous discussions, correspondence and offers with respect to Bidder's potential purchase of the ACH Software.

Very truly yours,

BIDDER

By: _____

Name:
Title: